IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3490 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AHMEDABAD STAMP VENDORS ASSOCIATION

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioner.
MR BB NAIK, Sr. Standing Counsel for
Respondents No.1 to 3
Mr. Sudhir Mehta, AGP for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 28/06/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

The petitioner is a registered Association of the stamp vendors of Ahmedabad. As the Officers of the Income Tax Department called upon the State Government to deduct tax-at-source under Section 194H of the Income Tax Act, 1961 (hereinafter referred to as "the Act") on commission or brokerage to the persons carrying on the business as 'stamp vendors', the petitioner-Association has approached this Court with a prayer to quash and set aside the communication at Annexure 'D' collectively, and for a declaration that Section 194-H of the Act is not applicable to an assessee carrying on business as a stamp vendor.

2. In response to the notice, an affidavit-in-reply has been filed by the Commissioner of Income tax, Ahmedabad-II for justifying the invocation of Section 194-H of the Act.

3. By the Finance Act, 2001, Section 194-H was inserted in the Act with effect from 1.6.2001. The Section reads as under :

Commission or brokerage.

194H. Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent :

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed two thousand five hundred rupees :

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary

limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, shall be liable to deduct income-tax under this section.

Explanation.___ For the purposes of this section,__

(i) "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(ii) xxx xxx xxx

(iii) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(iv) xxx xxx xxx

4. Mr. Mihir Joshi, learned counsel for the petitioner, has made the following submissions :

(i) The stamp vendors are not agents of the State Government from whom they purchase the stamp papers. The stamp vendors have to first obtain the licence under the Bombay Stamp Act and/or the Indian Stamp Act. The licensed stamp vendor has to apply to the Treasury Office for the stamps required by him. The statement of sale of stamps etc., popularly known as 'chalan' will have to be filled which clarifies the discount available to the stamp vendors on the basis of purchase of stamps and the total amount paid for it. The stamp vendor has to make the payment of the requisite amount in cash which is the total price of the stamps on their face value less the discount available to the vendor.

(ii) Since the stamp vendor has to pay the price less discount in advance to the Treasury Officer and thereafter the required stamps are disbursed to the stamp vendor on the next day of payment, all

dealings are done only on cash basis. Hence there is no payment from the Government to the stamp vendor, much less commission or brokerage.

(iii) There is distinction between 'discount being offered to the stamp vendors at the time of purchasing the stamp papers' on the one hand, and "the commission which the principal pays to his agent". Reference is also made to the decisions under The Central Excise Act for explaining the said distinction.

(iv). When the stamp papers are lost or destroyed, the stamp vendors are not entitled to get any compensation from the Government, and even when the stamp papers are returned under Rule 24 of the Rules, the Government pays the stamp vendors 10 per cent less than the face value of the stamp paper as against hardly 1/2% to 4% of discount which the stamp vendor gets at the time of purchasing stamp papers.

(v) Perusal of the Gujarat Stamps Supply & Sales Rules, 1987, (hereinafter referred to as "the Rules") indicates that the 'stamp vendors' are purchasers of stamp papers under contract of sale and there is no contract of agency between the Government and the stamp vendors. Reference is made to the decisions of the Supreme Court in Gordon Woodroffe and Co. Ltd. vs. Shaik M.A. Majid and Co., AIR 1967 181; M/s. Sri Thirumala Venkateswara Timber and Bamboo Firm Vs. Commercial Tax Officer, Rajahmundry AIR 1968 SC 784; and The Bhopal Sugar Industries Ltd., Vs. Sales Tax Officer, Bhopal, (1977) 3 SCC 147.

5. On the other hand, Mr. B.B. Naik, learned Standing Counsel for the Revenue, has made the following submissions :

(i) In the first place, the scheme of the Rules has various features which are not to be found in case of transaction between one principal and another and that the following features indicate that the relationship between the Government and the stamp vendor is that of principal and agent :

(a) The stamp papers can be purchased from the Government only by the licensed vendors;

(b) The accounts to be kept and rendered by the licensed vendors have to be in accordance with the forms prescribed by the Government and the licensed vendors also have to execute security bond, and

(c) The registers to be maintained by the stamp vendors can be inspected by duly authorised officer of the State Government.

(d). The most important aspect is Rules 24 and 25, which permit the licensed stamp vendor to return the stamp papers in his possession not merely on resigning his licence but even without resigning his licence by simply making an application for leave to deliver the stamps in his possession. Similarly, the Government can call upon the licensed vendor to deliver all stamps remaining in possession of the stamp vendor.

(e) Rule 25 also permits the licensed vendor to exchange any stamps for other stamps of the like aggregate value.

(f) It is vehemently submitted that the Rules 24 and 25 are in consistent with the contract or sale of goods and that they are only consistent with the contract of agency.

(ii) Secondly, the language of Section 194H is very wide. The definition of 'commission' or 'brokerage' contained in the said provision also provides that it includes any payment received or receivable, directly or indirectly, for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset valuable article or thing not being securities and therefore the so-called discount or rebate, being received by the stamp papers, is 'commission' for the purposes of Section 194H.

6. Before proceeding to deal with the rival submissions, it is necessary to make a reference to the letter dated 27th February 2002 from the Senior Treasury Officer, Ahmedabad, who is an officer of the State Government. In response to the Tax Recovery Officer's

letter dated 18th February 2002, the Senior Treasury Officer replied as under :

> "Treasury is neither paying commission nor brokerage to stamp vendors. Treasury only allows them discount. Discount is neither paid by cash nor by cheque but it is allowed as less payment. Discount on sale of stamp does not attract section 194H, Please confirm. If discount comes within purview of section 194H, you are requested to prescribe the procedure for tax deduction at source as in case of State Govt employees.
>
> Statement showing stamp sold and discount allowed from 1/6/2001 to 26/02/2002 is enclosed here with."

The statement accompanying the aforesaid letter indicates that there are 148 licensed vendors registered with the District Treasury Office, Ahmedabad and that out of them only 16 stamp vendors had received discount exceeding Rs. 60,000/= during the relevant period and that there are many who received discount less than Rs. 2500/= during the relevant period. Nothing of course turns upon this aspect because the question raised before the Court is purely a legal one which is required to be decided in light of the provisions of Section 194H and the provisions of the Rules and the relevant judicial pronouncements in this behalf. In any case, Mr. Sudhir Mehta, learned AGP for respondent No.3, Senior Treasury Officer, Ahmedabad, has supported the case of the petitioner on the basis of the aforesaid letter dated 18th February 2002.

7. Since the principal controversy in the present petition is whether the stamp vendors are agents of the State Government who are being paid commission or brokerage or whether the sale of stamp papers by the Government to the licensed vendors is on principal to principal basis involving the contract of sale, a brief reference is required to be made to the principles laid down by the Hon'ble Supreme Court in the case of Bhopal Sugar Industries Vs. Sales Tax Officer, Bhopal (1977) 3 SCC 147, wherein the Apex Court reviewed all the relevant previous decisions on the subject.

8. In the aforesaid decision, the Apex Court reiterated the principles laid down by it in the earlier

decisions as under:

> "As a matter of law there is a distinction between a contract of sale and a contract of agency by which the agent is authorised to sell or buy on behalf of the principal. The essence of a contract of sale is the transfer of title to the goods for a price paid or promised to be paid. The transferee in such a case is liable to the transferor as a debtor for the price to be paid and not as agent for the proceeds of the sale. The essence of agency to sell is the delivery of the goods to a person who is to sell them, not as his own property but as the property of the principal who continues to be the owner of the goods and will therefore be liable to account for the sale proceeds."

In Bhopal Sugar Industries Ltd., (Supra), the Court amplified the above principles and held as under :

> "The essence of the matter is that in a contract of sale, title to the property passes on to the buyer on delivery of the goods for a price paid or promised. Once this happens the buyer becomes the owner of the property and the seller has no vestige of title left in the property. The concept of a sale has, however, undergone a revolutionary change, having regard to the complexities of the modern times and the expanding needs of the society, which has made a departure from the doctrine of laissez fair by including a transaction within the fold of a sale even though the seller may by virtue of an agreement impose a number of restrictions on the buyer, e.g. fixation of price, submission of accounts, selling in a particular area or territory and so on. These restrictions per se would not convert a contract of sale into one of agency, because in spite of these restrictions the transaction would still be a sale and subject to all the incidents of a sale. A contract of agency, however, differs essentially from a contract of sale inasmuch as an agent after taking delivery of the property does not sell it as his own property but sells the same as the property of the principal and under his

instructions and directions. Furthermore, since the agent is not the owner of the goods, if any loss is suffered by the agent he is to be indemnified by the principal. This is yet another dominant factor which distinguishes an agent from a buyer -- pure and simple. In Halsbury's Laws of England, Vol.1, 4th Edn., in para 807 at p. 485, the following observations are made :

> The relation of principal and agent raises by implication a contract on the part of the principal to reimburse the agent in respect of all expenses, and to indemnify him against all liabilities, incurred in the reasonable performance of the agency, provided that such implication is not excluded by the express terms of the contract between them, and provided that such expenses and liabilities are in fact occasioned by his employment."

9. At this stage, we may also make a reference to the distinction between 'commission' and 'discount' as explained in Law Dictionaries and in judicial pronouncements.

In Block's Law Dictionary, "Commission" and "Discount" are defined and explained as under :

"Commision

The recompense, compensation or reward of an agent, salesman, executor, trustee, receiver, factor, broker, or bailee, when the same is calculated as a percentage on the amount of his transactions or on the profit to the principal. Weiner v.Swales, 217 Md. 123, 141 A.2d 749, 750. A fee paid to an agent or employee for transacting a piece of business or performing a service. Fryar v. Currin, App. 280 S.C. 241, 312 S.E. 2d 16, 18. Compensation to an administrator or other fiduciary for the faithful discharge of his duties."

"Discount

In a general sense, an allowance or deduction made from a gross sum on any account whatever in a more limited and technical sense, the taking of interest in advance.

A deduction from an original price or debt, allowed for paying promptly or in cash. Method of selling securities (e.g., treasury bills) which are issued below face value and redeemed at face value....

To purchase an instrument or other right to the payment of money, usually for an amount less than the face amount or value of the right."

10. In Harihar Cotton Pressing Factory Vs. Commissioner of Income-Tax, Bombay North, reported in (1960) 39 ITR 594, the Bombay High Court explained the distinction between the two expressions as under :

> The expression "commission" has no technical meaning but both in legal and commercial acceptation of the term it has definite signification and is understood as an allowance for service or labour in discharging certain duties such as for instance of an agent, factor, broker or any other person who manages the affairs or undertakes to do some work or renders some service to another. Mostly it is a percentage on price or value of upon the amount of money involved in a transaction. It can be for a variety of services and is of the nature of recompense or reward for such services. "Rebate", on the other hand, is a remission or a payment back and of the nature of a deduction from the gross amount. It is sometimes spoken of as a discount or a draw-back. The dictionary meaning of the term includes a refund to the purchaser of a thing or commodity of a portion of the price paid by him. It is not confined to a transaction of sale and includes any deduction or discount from a stipulated payment, charge or rate. It need not necessarily be taken out in advance of payment but may be handed back to the payer after he has paid the stipulated sum. The repayment need not be immediate. It can be made later and in case of persons who have continuous dealings with one another it is nothing unusual to do so."

Similarly, in Coromandel Fertilisers Ltd. Vs. Union of India and Others, 1984 (17) Excise Law Times 607, (Para 12) and in Moped India Limited Vs. Assistant Collector

of Central Excise, Nellore, 1986 (23) Excise Law Times 8 [Para 6], the Apex Court applied the aforesaid principles while considering the question of arriving at the excisable value of mopeds. The trade discounts given to the dealers by the manufacturer were held to be liable to be deducted from the price charged to the dealers for the purpose of arriving at the excisable value of the goods, but the commissions given to the agents were held to be not deductible from the price for the purpose of arriving at the excisable value of the goods.

11. In the background of the aforesaid principles, we are required to examine the scheme of the the Gujarat Stamps Supply & Sales Rules, 1987 under which the stamp vendors are given licence to carry on the business of purchasing and selling stamp papers. Rule 6(1) reads as under:-

"6. (1). The Collector or any other officer, empowered by the State Government in this behalf, may appoint certain persons to be licensed stamp vendors for the period of one year :

Provided that the licence for the sale of stamps embossed or engraved on stamp paper exceeding in value Rs. 2,000/- shall be granted after obtaining previous sanction of the State Government."

Rule 8 provides that the licensed vendor shall sell such stamps of such values as may be specified in the licence. Rule 12 reads as under:

"12. The licensed vendor shall (be) entitle(d) (to) the discount at the rates specified in Appendix III:

Provided that no discount shall be allowed to the licensed vendor on the purchase of stamps embossed or engraved on stamped paper exceeding in value of Rs. 2000/- :

Provided further that public shall not be entitled for any discount on the sale of stamps."

Appendix III to the Rules provides for the rates of discount to be allowed to licensed vendors which rates vary between 0.50% to 4%. It is not necessary to go into

the details of those rates.

Rules 9, 13 to 19 contain detailed provisions regarding the manner in which the licensed stamp vendor shall carry on his business. Rule 14 in particular requires the licensed vendor to make necessary entries on the stamp paper and also in the register in the prescribed form. The licensed vendor has also to deposit the register with the Collector upon completion of the financial year. Rule 21 provides that the accounts to be kept and rendered by the licensed vendors shall be the forms prescribed by the State Government. Rule 22 provides for execution of security bond by the licensed vendors, and Rule 23 confers powers upon the officers of the State Government to inspect the register maintained by the licensed vendor and also to examine the stock of stamps. Rules 24 and 25 read as under :

"24. (1) A licensed vendor__

(a) may deliver up any stamps in his possession either on application for leave to do so or on resigning his licence, and

(b) shall deliver up all stamps embossed or engraved on stamped paper remaining in his possession on demand made at any time by the Collector or other officer duly authorised by the State Government in this behalf.

(2) The payment of the value of stamps paid for by a licensed vendor and delivered up, shall be made subject to deductions as follows,namely:-

(a) A deduction of ten paise in the rupee or a fraction of a rupee of the full value of all stamps delivered up in the following circumstances,namely :-

(i) On resignation by the licensed vendor of his licence.

(ii) On revocation of the licence for any fault on the part of or breach of any rules committed by the licensed vendor;

(iii) On application by licensed vendor for leave to return any stamps in

his possession.

(b) A deduction only of the discount, if any, allowed on purchase by the vendor on stamps delivered up in the following circumstances, namely :-

(i) on the expiration of the licence;

(ii) On the recall of the stamps by Government;

(iii) On the revocation of the licence for any cause other than a fault on the part of or breach of any rules committed by the licensee;

(iv) On the death of the licensed vendor :

Provided that application for refund of the value of stamps delivered up under this rule shall be made within a period of one year of the date of the resignation or death of the licensed vendor or the revocation of the licence.

25. A licensed vendor shall be permitted to exchange any stamps which are, in the opinion of the Collector or other officer duly authorised by Government in this behalf, fit for use but for which there is no immediate demand, for other stamps of a like aggregate value."

12. A perusal of the aforesaid Rules would certainly indicate that there are several restrictions imposed upon the licensed vendors but as laid down by the Apex Court in Bhopal Sugar Industries Ltd., (Supra), "the concept of a sale has undergone a revolutionary change, having regard to the complexities of the modern times and the expanding needs of the society, which has made a departure from the doctrine of laissez faire by including a transaction within the fold of a sale even though the seller may by virtue of an agreement impose a number of restrictions on the buyer, e.g. fixation of price, submission of accounts, selling in a particular area or territory and so on. These restrictions per se would not convert a contract of sale into one of agency, because inspite of these restrictions the transaction would still be a sale and subject to all the incidents of a sale."

Hence without being swayed by the aforesaid restrictions imposed by the rules regarding the manner in which the licensed stamp vendors are to carry on their business, we have to examine whether the licensed stamp vendor is an agent of the State Government.

13. There is no dispute about the fact that the licensed vendor has to pay the price of the stamp papers less the discount at the rates provided in Appendix III to the Rules, which rates vary from 0.5% to 4%. It is not that the stamp vendor collects the stamp papers from the Government, sells them to the retail customers and then deposits the sale proceeds with the Government less the discount. The liability of the stamp vendor to pay the price less the discount is not dependent upon or contingent to sale of the stamp papers by the licensed vendor. The licensed vendor would not be entitled to get any compensation or refund of the price if the stamp papers were to be lost or destroyed.

14. As regards Mr. Naik's submission that Rules 24 and 25 of the Rules, enabling the licensed vendor to deliver any stamps in his possession by merely making an application for leave to do so without resigning his licence and to exchange any stamps for which there is no immediate demand for other stamps of the like aggregate value, are inconsistent with the contract of sale, it does prima facie seem attractive but on closer scrutiny it cannot be accepted. The reason is that the licensed vendor after purchasing the stamps on payment of full price less discount is not permitted to go out to sell the stamp papers in the open market in bulk even to another licensed vendor. Hence when the licensed vendor is to cease carrying on his business or to resign his licence or even in any other eventuality if he wants to reduce his stock, the rules envisaging only retail sale of stamp papers to customers had to make provisions for such contingencies. It was in order to make the prohibition against sale except in accordance with the rules efficacious that Rule 24 enables the licensed vendor to deliver up any stamps in his possession either on an application for leave to do so or on resigning his licence, but as against the discount between 0.5% to 4% obtained by him at the time of purchasing the stamp papers, the Government is to deduct 10% of the full value of the stamps so delivered up in contingencies like resignation by the licensed vendor or revocation of the licence for any fault on the part of the licensed vendor or on application for leave to return any stamps in his possession. It is only in limited circumstances like expiration of the licence or recall of stamps by the

Government or in event of death of the licensed vendor or on revocation of the licence for any cause other than fault on the part of the licensee that the deduction at the time of repurchase would be equivalent to the discount which was given to the vendor. Similarly, in view of the stringent restrictions imposed by the Government on the sale of stamp papers, Rule 25 provides that a licensed vendor may be permitted to exchange any stamps which are fit for use but for which there is no immediate demand, for other stamp papers of a like aggregate value.

15. The crucial question is whether ownership in the stamp papers passes to the stamp vendor when the Treasury Officer deliveres stamp papers on payment of price less discount. The Rules themselves contemplate that what the licensed vendor does, while taking delivery of the stamp papers from the Government offices, is purchasing the stamp papers. Clause (b) of sub-rule (2) of Rule 24 indicates that the discount which the licensed vendor had obtained from the Government was on purchase of the stamp papers. The stringency of the restrictions contained in the Rules is not on account of the fact that the ownership over the stamp papers is not transferred to the licensed vendors when they deliver the stamp papers on payment of price less discount, but the stringency of conditions is on account of the nature of the stamp papers as such stamp papers are used in transactions relating to valuable properties for the purpose of creating, transferring and extinguishing the interest in valuable properties. Judicial notice can be taken of the fact about the important, if not paramount, role being played by stamp papers in our legal system.

16. The doubt, if any, on the controversy at hand may also be cleared by reference to Entry 84 in Schedule I to the Gujarat Sales Tax, 1969. If these licensed stamp vendors were mere agents of the State Government, no sales-tax would have been leviable when the stamp vendors sell the stamp papers to the customers because it would be 'sale' by the Government through the stamp vendors. However, Entry 84 has been specifically provided in Schedule I to the Gujarat Sales Tax Act for exempting sale of stamp papers by the licensed vendors. The relevant Entry reads as under :

[SCHEDULE 1]
[See section 5]
Goods, the sale or purchase of which is free from all taxes.

Sr. No.	Description of goods.	Conditions and exceptions sub-ject to which exemption is granted.
84.	Stamp-papers sold by vendors duly authorised under the provisions of the Bombay Stamp Act, 1958, (Bom.LX of 1958 or the Indian Stamp Act, 1899, (2 of 1899).	xxx

The very basis of enacting the provision by the State Legislature for giving exemption from sales-tax in respect of sale of stamp papers by the licensed vendors was the fact that the sale of stamp papers by the licensed vendors to the customers would have been otherwise exigible to sales tax. The question of levy of sales tax would arise only because the licensed vendors themselves sell the stamp papers on their own and not as agents of the State Government. Had they been treated as agents of the State Government, the question of levy of sales-tax on sale of stamp papers by them would not arise.

17. Applying the aforesaid definitions and the judicial pronouncements to the facts of present case and in backdrop of the aforesaid Rules, it is clear that although the Government has imposed a number of restrictions on the licensed stamp vendors regarding the manner of carrying on the business, the stamp vendors are required to purchase the stamp papers on payment of price less the discount on the principal to principal basis and there is no contract of agency at any point of time.

18. It is also not possible to accept the contention of Mr Naik for the revenue that the definition of "commission or brokerage" as contained in explanation to section 194-H is so wide that it would include any payment receivable, directly or indirectly, for services in the course of buying or selling of goods and that, therefore, the discount availed of by the stamp vendors constitutes commission or brokerage within the meaning of Section 194-H. If this contention were to be accepted, all transactions of sale from a manufacturer to a wholesaler or from a wholesaler to a semi-wholesaler or

from a semi-wholesaler to a retailer would be covered by Section 194-H. To fall within the aforesaid explanation, the payment received or receivable, directly or indirectly, is by a person acting on behalf of another person (i) for services rendered (not being professional services) or (ii) for any services in the course of buying or selling of goods or (iii) in relation to any transaction relating to any asset, valuable article or thing. The element of agency is to be there in case of all services or transactions contemplated by explanation (i) to Section 194-H. If a car dealer purchases cars from the manufacturer by paying price less discount, he would be the purchaser and not the agent of the Company, but in the course of selling cars, he may entere into a contract of maintenance during the warranty period, with the customer (purchaser of the card) on behalf of the Company. However, such services rendered by the dealer in the course of selling cars does not make the activity of selling cars itself an act of agent of the manufacturer when the dealings between the Company and the dealer in the matter of sale of cars are on "principal to principal" basis. This is just an illustration to clarify that a service in the course of buying or selling of goods has to be something more than the act of buying or selling of goods. When the license stamp vendors took delivery of stamp papers on payment of full price less discount and they sell such stamp papers to retail customers, neither of the two activities (buying from the Government and selling to the customers) can be termed as the service in the course of buying or selling of goods.

19. In view of the above discussion, we uphold the contention urged on behalf of the petitioner's association that the discount made available to the licensed stamp vendors under the provisions of the Gujarat Stamps Supply & Sales Rules, 1987, does not fall within the expression "commission" or "brokerage" under Section 194-H of the Income Tax Act, 1961. The impugned communication dated 14th March 2002 from the Income Tax Officer, TDS 4, Ahmedabad to the Senior Treasury Officer, Ahmedabad, is, therefore, quashed and set aside, and so also the consequential instructions dated 19th March 2002, (Annexure "D" to the petition), issued by the Senior Treasury Officer, Ahmedabad to the Secretary of the petitioner's association are quashed and set aside.

20. Rule is made absolute with no order as to costs.

[M.S. Shah, J.]

rmr. [K.A. Puj, J.]